

Remarks:

Regarding the rejection of claims 1-2, and 7-11 under 35 USC 102(e) in view of US2003/0007887 A1 to Roumpos:

The applicant respectfully traverses the Examiner's reliance on the Roumpos reference particularly in view of the presently presented claims. Turning to the Roumpos reference, it does not appear that each and every element of our claim is found within the Roumpos reference. "'Rejection for anticipation or lack of novelty requires, as the first step in the inquiry, that all the elements of the claimed invention be described in a single reference...[.] Further, the reference must describe the applicant's claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it. " In re Spada 15 USPQ2d 1655, 1657 (CAFC, 1990)

First, with regard to the "chimney" (24) of Roumpos, the construction of this chimney is recited by Roumpos at paragraph 0070 as "comprised of cylinder or side wall with a top 24b opening and a bottom 24a opening". Further at paragraph 0078, there is reference to a "shield" (34) which is recited to "serve to protect the air circulation fan from debris and to mask the air circulation fan and any auxiliary components disposed within the base housing". Reading these paragraphs relied on by the Examiner, further in view of the rather noticeable wall thickness of Figure 1 for this element, it appears quite clear that Roumpos discloses a rather rigid, non-flexible element. As such, it is the applicant's view that Roumpos' "chimney"/"shield" would provide any type of a kinetic effect such as the applicant provides by their "imitation flame" element. Further, nothing in the Roumpos document appears to be relevant to the applicant's inventive embodiment as depicted in applicant's Figure 2.

Reconsideration of the propriety of the Roumpos reference against the presented claims and withdrawal of the present grounds of rejection is requested.

Regarding the rejection of claims 3-5 under 35 USC 102(b) in view of Shih:

The applicant traverses the Examiner's reliance upon the Shih reference in view of the presently presented claims. It is the applicant's view that a skilled artisan reading the Shih reference would find this document of no relevance to the presently claimed invention as at the outset, a skilled artisan reading the Shih document would dismiss it out of hand as it is directed to a liquid filled column which includes a sparging pump for releasing bubbles through said liquid column. It is the applicant's view that the same skilled artisan seeking to provide a fragrancing device would dismiss consideration of the Shih liquid filled column device out of hand, as it appears to be devoid of any depiction or suggestion of any fragrancing benefit or vapor delivery benefit provided by the Shih liquid-filled column. Although the Examiner refers to column 2, lines 5-15 as being relevant, the applicant disagrees as fundamentally, nowhere in Shih is there any recitation of finely divided particles in an airstream, or of delivering a volatile material, e.g., a fragrance via an airstream from the device. The sole passageway for an airstream in the Shih device appears to be an "ornamental cap" (23) which is affixed to the top of Shih's liquid-filled tube visible in Figure 4. Whereas this ornamental cap has a series of air vents, such merely permit for the release of the bubbles which are pumped into the bottom of the liquid-filled tube and allowed to rise and exit through the top opening. In now way however, does the Shih disclosure appear to anticipate the applicant's specific embodiment depicted on Figure 2.

Accordingly, reconsideration of the propriety of the Roumpos reference against the presented claims and withdrawal of the present grounds of rejection is requested.

Regarding the rejection of claim 6 under 35 USC 103(a) over Roumpos in view of Horng:

The applicant respectfully traverses the rejection of the claim in view of the combined Roumpos and Horng reference. Whereas the Examiner recites Horng as providing the teaching that the fan of that prior art air freshener apparatus can be operated by a pair of

batteries, this does not however address and overcome the defects in the Roumpos reference which has been pointed out above. More specifically the Examiner's combination of the Horng reference does not overcome the rather obvious defect in Roumpos, namely in the lack of a "kinetic" imitation flame as applicant provides in their embodiments of Figs. 1, 3 and 4, or the type of "kinetic display" which applicant provides in their embodiment according to Figure 2.

Accordingly, reconsideration of the propriety of the combined Roumpos and Horng references against the claim and withdrawal of the present grounds of rejection is requested.

Regarding the rejection of claim 9 under 35 USC 103(a) over Roumpos in view of Andeweg:

The applicant respectfully traverses the Examiner's rejection of claim 9 in view of the combined Roumpos and Andeweg references. The Examiner recites the Andeweg device in order to show that as an alternative to a fragrancng composition, an insecticidal device might also be released by air treatment devices. Nonetheless it is the applicant's view that the combination of Andeweg's teaching of insecticidal compositions does not address nor overcome the rather obvious shortcomings of the Roumpos device does not however address and overcome the defects in the Roumpos reference which has been pointed out above. More specifically the Examiner's combination of the Horng reference does not overcome the rather serious flaws in Roumpos, namely in the lack of a "kinetic" imitation flame as applicant provides in their embodiments of Figs. 1, 3 and 4, or the type of "kinetic display" which applicant provides in their embodiment according to Figure 2.

Accordingly, reconsideration of the propriety of the combined Roumpos and Andeweg references against the claim and withdrawal of the present grounds of rejection is requested.

Regarding the rejection of claim 12 under 35 USC 103(a) over Roumpos in view of Horng:

The applicant respectfully traverses the Examiner's rejection of claim 9 in view of the combined Roumpos and Horng references. Whereas the Examiner recites Horng as providing the teaching of a vapor generator which can be used in a room or in the interior of a vehicle, this does not however address and overcome the defects in the Roumpos reference which has been pointed out above. More specifically the Examiner's combination of the Horng reference does not overcome the rather obvious defect in Roumpos, namely in the lack of a "kinetic" imitation flame as applicant provides in their embodiments of Figs. 1, 3 and 4, or the type of "kinetic display" which applicant provides in their embodiment according to Figure 2.

Accordingly, reconsideration of the propriety of the combined Roumpos and Horng references against the claim and withdrawal of the present grounds of rejection is requested.

Should the Examiner believe that telephonic communication will advance the prosecution of the present application they are invited to telephone the undersigned at their convenience.

Petition for a Two-Month Extension of Time

The applicant respectfully petitions for a two-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this Petition.

Conditional Authorization for Fees

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;



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23 Nov 2005

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